

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRIMINAL MISC.NO.17498 M OF 2006

DATE OF DECISION: MAY 17, 2007

Bharat Sheth, Director, Integrated Technology
Solutions Pvt. Ltd., Mumbai

.....Petitioner

VERSUS

State of Haryana and another

....Respondents

CRIMINAL MISC.NO.17500 M OF 2006

Bharat Sheth, Director, Integrated Technology
Solutions Pvt. Ltd., Mumbai

.....Petitioner

VERSUS

State of Haryana and another

....Respondents

CRIMINAL MISC.NO.17502 M OF 2006

Bharat Sheth, Director, Integrated Technology
Solutions Pvt. Ltd., Mumbai

.....Petitioner

VERSUS

State of Haryana and another

....Respondents

CRIMINAL MISC.NO.27235 M OF 2006

Lalit Modi and others

Criminal Misc. No.17498 M of 2006

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.....Petitioner

VERSUS

State of Haryana and another

....Respondents

CRIMINAL MISC.NO.27301 M OF 2006

Lalit Modi and others

.....Petitioner

VERSUS

State of Haryana and another

....Respondents

CRIMINAL MISC.NO.27305 M OF 2006

Lalit Modi and others

.....Petitioner

VERSUS

State of Haryana and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

- 1. Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

PRESENT: Mr. Amarjit Singh Virk, Advocate,
for the petitioners.

Mr. Yashwinder Singh, AAG, Haryana,
for the State.

Mr. Ashit Malik, Advocate.

Mr. J. S. Bedi, Advocate.

Mr. R. S. Cheema, Sr.Advocate with
Mr. J. S. Mehindratta, Advocate.

RANJIT SINGH, J. (ORAL)

This order will dispose of abovenoted six Criminal Miscellaneous Petitions. The facts are being taken from Criminal Misc.No.17498 M of 2006.

This petition is filed by Bharat Sheth under Section 482 Cr.P.C. for quashing of FIR No.31 dated 13.2.2005, registered under Sections 403, 406, 420, 463, 468, 120-B IPC at Police Station Ambala City. Similar prayer is made in the remaining connected petitions for quashing of FIR Nos.66 and 67 dated 05.3.2005, registered under Sections 403, 406, 420, 463, 468, 120-B IPC at Police Station Baldev Nagar, Ambala City.

The allegations, as made out from the FIR, in brief, are that in April 2001, Government of Manipur had entered into an agreement with MWC Market Services Private Limited (for short, "MWC"), a Company incorporated under the Companies Act, 1956. This Company was appointed as a sole selling agent as the sole and exclusive agent of the State of Manipur to operate and maintain the Online Lottery on behalf of State of Manipur. On 6.1.2003, 'MWC' entered into an agreement with the Company known as Integrated Technology Solutions Private Limited (hereinafter referred to as "ITSPL"), for operating and maintaining the Online Lottery across India. They were also authorised to appoint distributors and retailers and execute the agreement with them for distribution and sale of lottery tickets throughout India. Manipur Government, however,

terminated the licence/agreement between the Government and MWC. Dispute/differences, thus, arose between the said Company and ITSPL, leading to registration of present impugned FIRs.

Notice was issued in petitions, seeking quashing of the FIR. During the pendency of proceedings, the dispute between ITSPL and the sub-retailers and distributors is amicably resolved and a compromise in this regard reached between the parties is placed on record. The counsel appearing for the parties have confirmed that the dispute is amicably resolved between the parties and a written memorandum of understanding executed between MOS and ITSPL is at Annexure A-1. A memorandum of understanding between MOS and ITSPL and Quick Fortune Enterprises Private Limited is separately made and written and the same is annexed as Annexure A-3. Affidavits Annexures A-2 and A-4 of the complainant B.M.Kaushik, Proprietor of Kaushik Tele Link and Dipinder Singh Sekhon, Director of Quick Fortune Enterprises Private Limited are also placed on record. The terms of the understanding are given in the memorandum, which are well understood by the parties and accepted before me by the counsel representing the parties. Since the disputes and differences have been resolved between the parties, no useful purpose will be served by allowing the present proceedings to continue. Some of the offences alleged against the petitioners are non-compoundable and in view of the law laid down by a Full Bench of this Court in Dharambir Vs. State of Haryana, 2005 (3) RCR (Criminal) 426 may seem to stand in the way of quashing on the basis of compromise. Inherent powers, preserved under Section 482 Cr.P.C. may still leave enough discretion with the

High Court to quash criminal proceedings in the interest of justice and to prevent abuse of law. In this regard, support can be sought from the observations made by the Full Bench in the case of Dharambir (supra). It was also observed that the terms 'abuse of process of law' and 'in the interest of justice' cannot be put in straight-jacket formula and Courts were left to decide as per the facts in each case. As held by the Full Bench, while exercising powers under Section 482 of the Code, the Court has, in given cases, quashed the criminal proceedings where it felt that the same were required to prevent the abuse of process of any Court or to otherwise secure ends of justice. These decisions, according to the Bench, would necessarily involve an appraisal of the facts and circumstances of each case and Court could not, while interpreting the statutory provisions, take upon itself the onerous responsibility of extending the powers of compounding of offences to cases other than those listed in Section 320 (1) and (2) of the Code. The Full Bench also noticed the requirement of making an endeavour to bring into operation the conciliation process. The relevant observations of the Full Bench in this regard may be noticed and these are as follows:-

“12.....The balance in each case will have to be struck to ensure that complete justice is done between the parties and for achieving this, each individual case will have to be scrutinised to find out whether it attracts any of the provisions incorporated in Section 482 of the Code to impel the Court to grant relief to a party either in the exercise of the aforesaid power or under Article 226 of

the Constitution. Therefore, we would not like to launch an exercise for determining the scope of judicial intervention as provided under Section 482 of the Code in view of the terms “abuse of the process of law” and “in the interest of justice”, as it would not be proper for us to provide a straightjacket formula for channelling judicial responses to the facts and the circumstances of a given case. It would be more appropriate that the interpretation of these terms is left open to the response of an Hon'ble Judge to the facts and circumstances of a given case, as and when this Court is called upon to intervene in any matter for preventing the abuse of the process of law and advancing the ends of justice.”

It is, thus, clear that the Full Bench of this Court clearly left it to the discretion of the Judge to decide in each case to intervene under Section 482 Cr.P.C. depending upon the facts and circumstances of the case to see if quashing of the proceedings could be ordered in exercise of powers under Section 482 Cr.P.C. to secure the ends of justice and to avoid abuse of process of the Court. Conciliation is required to be encouraged. It results in saving the time of the Court, which indeed are hard pressed to cope up with the mounting increase in cases. This, prosecution, if allowed, certainly would be an exercise in futility in view of the compromise. This must, as such, be brought to an end.

I would accordingly allow all the petitions and quash FIR No.31 dated 13.2.2005, FIR Nos.66 and 67 dated 05.3.2005,, registered under Sections 403, 406, 420, 463, 468, 120-B IPC at

Criminal Misc. No.17498 M of 2006

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Police Station, Baldev Nagar, Ambala City respectively and all subsequent proceedings arising therefrom.

**May 17, 2007
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**(RANJIT SINGH)
JUDGE**